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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-eighth session

Summary record (partial)* of the 382nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 12 April 2018, at 10 a.m.

Chair: Mr. Tall

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Guyana (*continued*) (CMW/C/GUY/QPR/1)

1. **Mr. Ford** (Guyana), responding to questions put by Committee members at the previous meeting, said that one of the tasks of the Law Reform Commission established under the 2016 Law Reform Commission Act was to update national legislation in order to ensure its conformity with international best practices. The conformity of national legislation with the Convention, including the use of appropriate terminology, would be considered as part of that process. The ongoing work on the global compact for safe, orderly and regular migration had reinvigorated efforts to improve the migration governance framework and had fostered an environment conducive to the full realization of the Convention. Guyana was prepared to play a greater role in promoting the Convention at the international level, especially in countries with significant populations of Guyanese migrant workers. Many of those countries, including Barbados, Canada, Suriname and the United States of America, had not yet ratified the Convention.

2. The Department of Citizenship and Immigration was the central authority for matters relating to migration. The Ministry of Foreign Affairs cooperated with the Department to protect the rights of migrant workers. The International Organization for Migration (IOM) played a critical role in migration management in the country and coordinated assisted voluntary return and reintegration programmes for Guyanese nationals. Training on the rights of migrant workers had been organized for police officers and immigration officials. The Central Recruitment and Manpower Agency under the Ministry of Social Protection published data on labour and skills availability, which could be consulted by employers and migrant workers. The Ministry of Tourism disseminated information on life in Guyana for prospective migrants, the Guyana Office for Investment supported firms that wished to bring migrant workers to Guyana, and the Georgetown Chamber of Commerce and Industry facilitated the opening of businesses in the country.

3. Guyanese consulates abroad maintained active links with Guyanese migrant workers and ran community outreach programmes for them. They provided essential consular services, including legal assistance and the issuance of passports, and also organized religious and cultural events. Women occupied a large proportion of the senior staff positions in the consular network.

4. Going forward, Guyana would work to promote the Convention at the regional and global levels, improve its internal coordination mechanisms and institutional framework for the protection of the rights of migrant workers and strengthen the role of civil society in the implementation of the Convention.

5. **Ms. Landázuri de Mora** (Country Rapporteur) said that it would be useful to learn whether it was possible for returning Guyanese migrant workers to transfer their social security entitlements back to Guyana and whether social security agreements had been concluded with any of the States whose nationals were employed in Guyana. The procedures for transferring remittances, which represented a major source of income for countries of origin and played an important role in their development, often presented challenges. With regard to return and reintegration, she wished to commend the State party for the programmes that it had implemented in coordination with IOM and wondered what special measures had been taken to support nationals of Guyana who had been deported from the United States.

6. **Mr. Ünver** (Country Rapporteur) said that he wished to know whether children born to Guyanese migrant workers abroad experienced difficulties in terms of birth registration and the acquisition of Guyanese nationality. He recalled that, under article 37 of the Convention, migrant workers had a right to be informed of the conditions applicable to their admission to the State of employment and that, under article 41, migrant workers and members of their families had the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State. He would appreciate more information on the family reunification procedure for migrant workers in Guyana. In view

of the relatively low number of States that had ratified the Convention and its status as the only comprehensive, legally binding instrument on migration, States parties had a heightened responsibility to ensure the protection of the rights for which it provided. The experience of Guyana in that regard could serve as a model for other countries in the region.

7. **Mr. El-Borai** said that he would appreciate further information on the trade union rights of migrant workers in Guyana and wished to know whether, in respect of remuneration, they enjoyed treatment not less favourable than that which applied to nationals of Guyana. It was unclear what measures had been taken to support the reintegration of Guyanese migrant workers who voluntarily returned to Guyana. Lastly, it would be helpful if the delegation could provide more information on the steps that had been taken to incorporate the provisions of the Convention into national legislation on labour and migration.

8. **Mr. Taghi-Zada** said that he would welcome more information on the consular and other services provided to meet the needs of Guyanese migrant workers and members of their families abroad. Although most of the foreign States in which Guyanese migrant workers were employed had not ratified the Convention, many of them had ratified several other international human rights treaties. The Committee could therefore cooperate with the other human rights treaty bodies to investigate violations of the human rights of Guyanese migrant workers and members of their families in those States.

9. **Mr. Kariyawasam** asked what measures had been taken to ensure that newly arrived migrant workers in Guyana, in which English was the official language, were provided with information on their rights and responsibilities in a language that they could understand.

10. **Mr. Botero Navarro** said that he wished to know in what circumstances migrants in an irregular situation in Guyana could be detained in connection with their migration status, at which facilities migrants were detained in such circumstances, whether migrants detained in connection with their migration status had access to legal remedies and whether such detention was subject to judicial review. He recalled that, whatever term was used to describe the process, migrants should only ever be detained as an exceptional measure of last resort, for the shortest possible period and for legitimate reasons. It was unclear whether bodies such as the national human rights institution, international organizations and civil society organizations were authorized to visit the places at which migrants were detained.

11. In the light of joint general comment No. 4 of the Committee and No. 23 of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, it would be helpful to learn whether children could be detained in connection with their migration status in Guyana and, if so, in what circumstances. It was unclear what form of redress was available to migrants who had been unlawfully or arbitrarily detained.

12. Regarding the implementation of the Convention, he would appreciate information on any cases in which judges had handed down rulings that protected the rights of migrants or had otherwise invoked the Convention or standards developed by the Committee within its general comments.

13. In reference to article 69 of the Convention, he wished to know whether there were any measures in place for regularizing the status of migrants in an irregular situation, for instance, Venezuelans who had re-entered Guyana after having been expelled. With regard to article 77, he would appreciate information on any government intentions to recognize the competence of the Committee to receive individual communications from persons who alleged that their rights had been violated under the Convention.

14. **Mr. Núñez-Melgar Maguiña** said that the social security legislation of different countries was often incompatible in the areas of basic welfare and health care and that multilateral or, preferably, bilateral agreements were thus often needed to ensure social security coverage for migrants. How many such bilateral agreements had Guyana entered into and what efforts had been made to extend social security coverage to labour migration?

15. He would appreciate information on the extent to which remittances were used for development purposes and on how remittances were transferred and received. If remittances were received through the banking system, could that facilitate recipients' access to loans or credit? How could the Government ensure that remittances had a positive impact on recipients, the economy and the broader community, including through taxation and development programmes?

16. **Ms. Ladjel** said that she wished to know how the Government ensured the best possible level of protection for the most vulnerable children, who were exposed to the risk of economic exploitation, abuse or neglect.

17. **The Chair** said that he would welcome information on the nationalities of female migrants employed in domestic work, what difficulties those persons faced and what the Government was doing to protect them. Moreover, had there been any collective expulsions of migrants from Guyana since 2013, and, if so, what were the nationalities of those expelled? He would appreciate information on any individual expulsions that had been ordered, namely, how such expulsions were carried out, who was responsible for taking expulsion decisions and whether there was a possibility of appealing or suspending such decisions. In addition, what action had been taken to provide a comprehensive legal framework to protect the rights of migrants in an irregular situation who might be subject to expulsion, in particular those with neither work nor residence permits?

The meeting was suspended at 11 a.m. and resumed at 11.45 a.m.

18. **Mr. Ford** (Guyana) said that social security coverage was available for migrants who had worked in Guyana for an extended period of time and for all Guyanese citizens, including older persons who had emigrated for the purposes of family reunification. The national insurance scheme guaranteed the continuity of the payments, which were normally made to accounts in national banks. Responsibility for withdrawing social security payments from the banks lay with the migrants, who usually opened an account in the receiving country with the same bank that they used in Guyana as that facilitated the transfer of payments. With the development of the digital economy, international bank transfers had become much easier than in the past.

19. Remittances were an important part of the Guyanese economy and its foreign exchange balance, and the Government had a keen interest in making it easier to transfer remittances and thereby promote such injections of foreign exchange into the economy. Remittances were not taxable in Guyana; the majority of transfers were made through financial institutions. The Government left it to financial institutions to determine their own policies on the use of remittances to pay off loans or as collateral for loans. Individuals were free to mobilize incoming remittances for development purposes, but no such possibilities existed within the government framework; however, civil society groups, such as women's or farmers' organizations, were often formed by communities to pool resources in order to develop sustainable livelihoods.

20. There were a number of reintegration programmes for migrants returning or sent back to Guyana, as well as remigration programmes for migrants leaving Guyana to return to their home countries; they were operated mainly by the Ministry of Foreign Affairs and the Guyana Office for Investment. There were specific programmes for Guyanese who had been deported for committing criminal offences in another country. The Ministry of Social Protection had examined how to provide such persons with psychological, social and economic support upon their return in view of the Government's responsibility, inter alia, to ensure general public safety.

21. In contrast to some other countries in the Caribbean Community, any child born to a Guyanese parent overseas could be registered at birth at a Guyanese consulate and obtain Guyanese nationality.

22. The Government did not systematically provide pre-departure information for migrating Guyanese nationals. Such information was generally provided by the destination country's embassy or consulate in Guyana; it was also readily available online. However, it was uncommon for Guyanese to migrate to a country where they had neither family

connections nor employment prospects. As for migrants arriving in Guyana, it was a widely accepted practice that the rest of the immediate family should accompany the visa holder.

23. Following the adoption of the Law Reform Commission Act in 2016, legislation was expected to be modified to align it with the Convention. Labour legislation did not differentiate between nationals and non-nationals, who were entitled to the same pay as Guyanese in all industries and enterprises.

24. Overseas voting, which had previously been part of the Guyanese electoral process, had been discontinued, but all Guyanese nationals living abroad were eligible to register to participate in the electoral system upon their return.

25. Guyanese consulates provided services to Guyanese migrants in accordance with the laws of the country in which they were located. Where required, consular staff were often able to recommend lawyers able to provide Guyanese migrants with advice and assistance, including information about their rights and the services available in the event of legal difficulties. In some cases, consular staff had visited Guyanese nationals who had been detained or incarcerated in order to ascertain their needs and personal situation.

26. Communities located close to the country's borders generally spoke more than one language, often including an indigenous language. The Government therefore sought to ensure that police officers and immigration officials posted to border areas had the requisite language skills, although that was sometimes difficult as people from the coastal area did not usually speak the languages used in border areas. That being said, Spanish-language teaching had expanded greatly in recent decades; the Venezuelan Institute for Culture and Cooperation had made a particularly significant contribution and many Guyanese travelled to Venezuela to pursue advanced studies.

27. Migrants in an irregular situation detained in Guyana were brought before a magistrate and had a hearing in a language that they could understand. If the magistrate ruled in favour of deportation, the immigration authorities worked to ensure, where possible, that the migrant in question was sent to a country of his or her choice.

28. The Rights of the Child Commission cooperated with the Childcare and Protection Agency to protect all children, including migrant children in an irregular situation. Guyana was committed to upholding children's rights, as evidenced by its ratification of the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

29. Guyana had signed a number of regional agreements, not least the Treaty of Chaguaramas. The Ministry of Foreign Affairs held joint meetings with its counterpart in Barbados to discuss the protection of the rights of Barbadians in Guyana, and vice versa.

30. Female domestic workers were covered by labour laws. Complaints against employers were investigated by the police, the Ministry of Labour, Human Services and Social Security, and the Ministry of Social Protection.

31. **Ms. Landázuri de Mora**, thanking the delegation for engaging in a constructive dialogue with the Committee, said that she wished to make a few recommendations. First, the State party should bring its national legislation into line with the Convention and other international instruments. The Government should implement the Convention through its public policies and learn from best and worst practices in that regard from other countries in the region. The Committee was open to advising local and national authorities on how best to ensure effective implementation.

32. Procedures for the detention of migrants in an irregular situation should be reviewed, and appropriate human rights training should be provided to all officials at borders and in places of detention. The detention process in general should be simplified and organized in such a way as to ensure due process and the right to an effective remedy for persons detained arbitrarily. The Government should establish a national human rights institution and forge alliances with civil society actors.

33. It was important to discourage the negative portrayal of migrants in the media, including through the imposition of sanctions, if necessary. While Guyana was not a party to the Convention relating to the Status of Refugees, it could work in conjunction with the United Nations and Governments in refugees' countries of origin to put in place protection mechanisms. The Government should consider issuing humanitarian visas to persons fleeing the crisis in the Bolivarian Republic of Venezuela.

34. The Committee supported the opening of consulates in places with significant Guyanese populations. Consular officials should cooperate with the Guyanese diaspora to offer information and other assistance to recently emigrated Guyanese nationals.

35. The Committee's experience had shown that a degree of bank regulation was required to keep bank fees and interest rates in check for migrants sending remittances. The Government should look at the experiences of migrants who had returned to their countries of origin and had used their earnings to boost local development. In that connection, steps should be taken to facilitate the comprehensive reintegration of returning migrants, bearing in mind their educational, professional and social needs, among others.

36. Lastly, the State party should strengthen its cooperation with neighbouring countries and adopt best practices with regard to managing migratory flows and providing support to expatriates.

37. **Mr. Ford** (Guyana) said that the Committee's feedback and recommendations, the best practices of other States parties and the pre-session documents that had been issued in preparation for the constructive dialogue would all be used to inform the Government's future efforts to fulfil its obligations under the Convention.

The discussion covered in the summary record ended at 12.45 p.m.